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(formerly known as "Aluminum Company
of America") and Alcoa Domestic, LLC, as
successor in interest to A.P. New Jersey, Inc.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

BOROUGH OF EDGEWATER,

Plaintiff,

v.

WATERSIDE CONSTRUCTION, LLC; 38
COAH, LLC; DAIBES BROTHERS, INC.;
NORTH RIVER MEWS ASSOCIATES, LLC;
FRED A. DAIBES; TERMS
ENVIRONMENTAL SERVICES, INC.;
ALCOA INC. (formerly known as "Aluminum
Company of America"); ALCOA DOMESTIC
LLC, as successor in interest to A.P. NEW
JERSEY, INC.; JOHN DOES 1-100; and ABC
CORPORATIONS 1-100,

Defendants,

and

WATERSIDE CONSTRUCTION, LLC; 38
COAH, LLC; DAIBES BROTHERS, INC.;
NORTH RIVER MEWS ASSOCIATES, LLC;
and FRED A. DAIBES,

Defendants/Third-Party Plaintiffs,

v.

NEGLIA ENGINEERING ASSOCIATES,

Third-Party Defendant,

Civil Action No.: 2:14-CV-05060 (ES-MAH)

**ANSWER TO THE SECOND
AMENDED COMPLAINT AND
AFFIRMATIVE DEFENSES**

and

ALCOA DOMESTIC, LLC, as successor in interest to A.P. NEW JERSEY, INC.,

Defendant/Third-Party Plaintiff,

v.

COUNTY OF BERGEN and RIVER ROAD IMPROVEMENT PHASE II, INC.,

Third-Party Defendants.

Defendants Alcoa Inc. (formerly known as “Aluminum Company of America”) and Alcoa Domestic LLC, as the successor in interest to A.P. New Jersey, Inc., (collectively “Alcoa”) by their counsel K&L Gates LLP, answer the Plaintiff’s Second Amended Complaint as follows:

THE PARTIES

1. Inasmuch as Paragraph 1 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.
2. Inasmuch as Paragraph 2 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.
3. Inasmuch as Paragraph 3 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.
4. Inasmuch as Paragraph 4 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.
5. Inasmuch as Paragraph 5 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

6. Inasmuch as Paragraph 6 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

7. Inasmuch as Paragraph 7 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

8. Alcoa admits that Alcoa Inc. is a Pennsylvania corporation with offices at 201 Isabella Street, Pittsburgh, Pennsylvania 15212. Alcoa denies the remaining allegations set forth in Paragraph 8.

9. Alcoa denies the allegations set forth in Paragraph 9, but Alcoa admits that A.P. New Jersey, Inc. was a Delaware corporation that merged into Alcoa Domestic LLC, a wholly-owned subsidiary of Alcoa Inc., in 2010.

10. Inasmuch as Paragraph 10 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

11. Inasmuch as Paragraph 11 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

JURISDICTION AND VENUE

12. Alcoa can neither admit nor deny the allegations set forth in Paragraph 12, inasmuch as it makes legal conclusions to which Alcoa is not required to respond and which may vary from party to party.

13. Alcoa can neither admit nor deny the allegations set forth in Paragraph 13, inasmuch as it makes legal conclusions to which Alcoa is not required to respond and which may vary from party to party.

14. Alcoa can neither admit nor deny the allegations set forth in Paragraph 14, inasmuch as it makes legal conclusions to which Alcoa is not required to respond and which may vary from party to party.

15. Alcoa objects to the allegations contained in Paragraph 15 to the extent that Paragraph states conclusions to which no responsive pleading is required. Alcoa denies the remaining factual allegations of Paragraph 15 except to admit that Alcoa conducts business in the State of New Jersey.

BACKGROUND

16. Alcoa denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 16.

17. Inasmuch as Paragraph 17 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

18. Alcoa denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 18.

19. Alcoa denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 19.

20. Alcoa denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 20.

21. Alcoa denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 21.

22. Alcoa denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 22.

23. Inasmuch as Paragraph 23 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

24. Inasmuch as Paragraph 24 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

25. Inasmuch as Paragraph 25 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

26. Alcoa denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 26.

27. Alcoa denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 27.

28. Alcoa denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 28.

29. Inasmuch as Paragraph 29 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

30. Inasmuch as Paragraph 30 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

31. Inasmuch as Paragraph 31 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

32. Inasmuch as Paragraph 32 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

33. Alcoa denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 33.

34. Alcoa denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 34.

35. Inasmuch as Paragraph 35 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

36. Inasmuch as Paragraph 36 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

37. Inasmuch as Paragraph 37 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

38. Inasmuch as Paragraph 38 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

39. Inasmuch as Paragraph 39 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

40. Inasmuch as Paragraph 40 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

41. Inasmuch as Paragraph 41 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

42. Inasmuch as Paragraph 42 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

43. Inasmuch as Paragraph 43 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

44. Alcoa denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 44.

45. Alcoa denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 45.

46. Inasmuch as Paragraph 46 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

47. Inasmuch as Paragraph 47 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

48. Inasmuch as Paragraph 48 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

49. Inasmuch as Paragraph 49 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

50. Inasmuch as Paragraph 50 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

51. Inasmuch as Paragraph 51 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

52. Inasmuch as Paragraph 52 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

53. Inasmuch as Paragraph 53 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

54. Inasmuch as Paragraph 54 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph. Inasmuch as Paragraph 54 contains factual allegations related to Alcoa, Alcoa denies knowledge or information sufficient to form a belief as to the allegations contained in that Paragraph.

55. Alcoa denies the allegations set forth in Paragraph 55, except Alcoa admits that at one time the site identified by Plaintiff as the "Alcoa Site" was owned by Alcoa Inc. and A.P. New Jersey, Inc. and was conveyed to North River Mews Associates, LLC in 1997. Inasmuch as Paragraph 55 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

56. Alcoa denies the allegations set forth in Paragraph 56, except Alcoa admits that at one time the site identified by Plaintiff as the "Alcoa Site" was owned by Alcoa Inc. and A.P. New Jersey, Inc. and was conveyed to North River Mews Associates, LLC in 1997. Inasmuch as Paragraph 56 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

57. Alcoa admits that NJDEP issued a Restricted Use No Further Action Letter on or about February 12, 2003. Alcoa refers to the Restricted Use No Further Action Letter for the language therein and its exact meaning and effect. Inasmuch as Paragraph 57 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

58. Alcoa refers to the Restricted Use No Further Action Letter for the language therein and its exact meaning and effect.

59. Inasmuch as Paragraph 59 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

60. Inasmuch as Paragraph 60 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

61. Alcoa refers to the Deed Notice for the language therein and its exact meaning and effect.

62. Alcoa admits that there was a building known as "Building 12" on the site identified by Plaintiff as the "Alcoa Site." Alcoa admits that Building 12 was constructed, in part, out of concrete.

63. Alcoa refers to the Deed Notice for the language therein and its exact meaning and effect. Alcoa denies that the Deed Notice required Alcoa to submit written certification to NJDEP of the maintenance of such institutional and engineering controls and that no changes have occurred.

64. Alcoa refers to the Deed Notice for the language therein and its exact meaning and effect.

65. Alcoa refers to the Deed Notice for the language therein and its exact meaning and effect.

66. Inasmuch as Paragraph 66 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

67. Inasmuch as Paragraph 67 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

68. Alcoa denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 68.

69. Inasmuch as Paragraph 69 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

70. Alcoa denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 70.

71. Inasmuch as Paragraph 71 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph. Inasmuch as

Paragraph 71 contains allegations related to Alcoa, Alcoa denies knowledge or information sufficient to form a belief as to the allegations contained in that Paragraph.

72. Inasmuch as Paragraph 72 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph. Inasmuch as Paragraph 72 contains allegations related to Alcoa, Alcoa denies knowledge or information sufficient to form a belief as to the allegations contained in that Paragraph.

73. Inasmuch as Paragraph 73 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph. Inasmuch as Paragraph 73 contains allegations related to Alcoa, Alcoa denies knowledge or information sufficient to form a belief as to the allegations contained in that Paragraph.

74. Inasmuch as Paragraph 74 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

75. Inasmuch as Paragraph 75 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

76. Inasmuch as Paragraph 76 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

77. Inasmuch as Paragraph 77 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

78. Inasmuch as Paragraph 78 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

79. Inasmuch as Paragraph 79 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

80. Inasmuch as Paragraph 80 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

81. Inasmuch as Paragraph 81 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

COUNT I
Contribution under the Spill Act
(as to Waterside, Fred Daibes, Daibes Brothers, 38 COAH, North River, ALCOA,
TERMS, A.P., John Does 1-100 and ABC Corporations 1-100)

82. Alcoa repeats and re-alleges with the same force and effect as if set forth here in full its answers to each and every allegation contained in each paragraph incorporated by reference in Paragraph 82 of the First Amended Complaint.

83. Alcoa refers to N.J.S.A. § 58:10-23.11f(a)(2) for the language therein and its exact meaning and effect.

84. Alcoa can neither admit nor deny the allegations in Paragraph 84 inasmuch as it makes legal conclusions to which Alcoa is not required to respond and which may vary from party to party.

85. Inasmuch as Paragraph 85 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

86. Inasmuch as Paragraph 86 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

87. Inasmuch as Paragraph 87 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

88. Inasmuch as Paragraph 88 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

89. Inasmuch as Paragraph 89 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

90. Alcoa objects to the allegations contained in Paragraph 90 as that Paragraph states conclusions to which no responsive pleading is required. Alcoa Inc. admits that it is a corporation organized under the laws of the Commonwealth of Pennsylvania.

91. Inasmuch as Paragraph 91 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

92. Alcoa objects to the allegations contained in Paragraph 92 as that Paragraph states conclusions to which no responsive pleading is required. Alcoa admits that Alcoa Domestic LLC is the successor in interest to A.P. New Jersey, Inc., which was a Delaware corporation.

93. Inasmuch as Paragraph 93 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

94. Inasmuch as Paragraph 94 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

95. Alcoa denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 95 and refers to Spill Act Section 58:10-23.11b, N.J.S.A. § 58:10-23.11b for the language therein and its exact meaning and effect.

96. Alcoa denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 96 and refers to Spill Act Section 58:10-23.11b, N.J.S.A. § 58:10-23.11b for the language therein and its exact meaning and effect.

97. Inasmuch as Paragraph 97 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

98. Inasmuch as Paragraph 98 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

99. Inasmuch as Paragraph 99 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

100. Inasmuch as Paragraph 100 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

101. Inasmuch as Paragraph 101 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

102. Alcoa denies the allegations set forth in Paragraph 102.

103. Inasmuch as Paragraph 103 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

104. Alcoa denies the allegations set forth in Paragraph 104.

105. Inasmuch as Paragraph 105 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

106. Inasmuch as Paragraph 106 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

107. Alcoa denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 107.

108. Alcoa denies that Plaintiff is entitled to contribution from Alcoa Inc., A.P. New Jersey, Inc., or Alcoa Domestic LLC for investigation or remediation costs Plaintiff has incurred or will incur or for which Plaintiff is deemed liable. Inasmuch as Paragraph 108 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations

set forth in that Paragraph. Nonetheless, Alcoa denies that Plaintiff is entitled to the relief described in that Paragraph.

COUNT II
Cost Recovery under CERCLA
(as to Waterside, Fred Daibes, Daibes Brothers, 38 COAH, North River, ALCOA, A.P.,
TERMS, John Does 1-100 and ABC Corporations 1-100)

109. Alcoa repeats and re-alleges with the same force and effect as if set forth here in full its answers to each and every allegation contained in each paragraph incorporated by reference in Paragraph 109 of the First Amended Complaint.

110. Alcoa refers to Section 107(a)(4)(B) of CERCLA, 42 U.S.C. § 9607(a)(4)(B), for the language therein and its exact meaning and effect.

111. Alcoa refers to Sections 107(a)(1) and 107(a)(4)(B) of CERCLA, 42 U.S.C. § 9607(a)(1), (4)(B), for the language therein and its exact meaning and effect.

112. Alcoa refers to Sections 107(a)(2) and 107(a)(4)(B) of CERCLA, 42 U.S.C. § 9607(a)(2), (4)(B), for the language therein and its exact meaning and effect.

113. Alcoa refers to Sections 107(a)(3) and 107(a)(4)(B) of CERCLA, 42 U.S.C. § 9607(a)(3), (4)(B), for the language therein and its exact meaning and effect.

114. Alcoa refers to Sections 107(a)(4) and 107(a)(4)(B) of CERCLA, 42 U.S.C. § 9607(a)(4), (4)(B), for the language therein and its exact meaning and effect.

115. Alcoa can neither admit nor deny the allegations set forth in Paragraph 115, inasmuch as it makes legal conclusions to which Alcoa is not required to respond and which may vary from party to party. Alcoa admits that Alcoa Inc. is a corporation organized under the laws of the Commonwealth of Pennsylvania. Alcoa admits that Alcoa Domestic LLC is a limited liability company organized under the laws of Delaware. Inasmuch as Paragraph 115 contains

allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

116. Alcoa denies that either Alcoa Inc. or Alcoa Domestic LLC are owners and/or “operators” of Veteran’s Field within the meaning of Section 101(20) of CERCLA, 42 U.S.C. § 9601(20). Inasmuch as Paragraph 116 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

117. Alcoa denies that either Alcoa Inc. or Alcoa Domestic LLC arranged, by contract, agreement, or otherwise, for disposal of hazardous substances at Veteran’s Field. Inasmuch as Paragraph 117 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

118. Inasmuch as Paragraph 118 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

119. Alcoa denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 119.

120. Alcoa denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 120.

121. Alcoa denies that either Alcoa Inc. or Alcoa Domestic LLC are liable under CERCLA as persons who at the time of disposal of any hazardous substance owned or operated any facility at which hazardous substances were disposed. Inasmuch as Paragraph 121 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

122. Alcoa denies that either Alcoa Inc. or Alcoa Domestic LLC are liable under Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3), as persons who by contract, agreement,

or otherwise arranged for the disposal or treatment of hazardous substances. Inasmuch as Paragraph 122 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

123. Inasmuch as Paragraph 123 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

124. Alcoa denies that Plaintiff is entitled to recovery from Alcoa Inc. or Alcoa Domestic LLC for its costs of response incurred in connection with Veteran's Field. Inasmuch as Paragraph 124 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph. Nonetheless, Alcoa denies that Plaintiff is entitled to the relief described in that Paragraph.

**COUNT III
Breach of Contract (as to Waterside)**

125. Alcoa repeats and re-alleges with the same force and effect as if set forth here in full its answers to each and every allegation contained in each paragraph incorporated by reference in Paragraph 125 of the First Amended Complaint.

126. Inasmuch as Paragraph 126 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

127. Inasmuch as Paragraph 127 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

128. Inasmuch as Paragraph 128 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

129. Inasmuch as Paragraph 129 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

130. Inasmuch as Paragraph 130 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

131. Inasmuch as Paragraph 131 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

132. Inasmuch as Paragraph 132 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

133. Inasmuch as Paragraph 133 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

134. Inasmuch as Paragraph 134 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

135. Inasmuch as Paragraph 135 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

136. Inasmuch as Paragraph 136 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

137. Inasmuch as Paragraph 137 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

138. Inasmuch as Paragraph 138 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

139. Inasmuch as Paragraph 139 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

140. Inasmuch as Paragraph 140 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

141. Inasmuch as Paragraph 141 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

142. Inasmuch as Paragraph 142 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

143. Inasmuch as Paragraph 143 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

144. Inasmuch as Paragraph 144 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

145. Inasmuch as Paragraph 145 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

146. Inasmuch as Paragraph 146 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

COUNT IV
Fraud (as to Waterside and Fred Daibes)

147. Alcoa repeats and re-alleges with the same force and effect as if set forth here in full its answers to each and every allegation contained in each paragraph incorporated by reference in Paragraph 147 of the First Amended Complaint.

148. Inasmuch as Paragraph 148 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

149. Inasmuch as Paragraph 149 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

150. Inasmuch as Paragraph 150 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

151. Inasmuch as Paragraph 151 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

152. Inasmuch as Paragraph 152 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

153. Inasmuch as Paragraph 153 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

154. Inasmuch as Paragraph 154 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

155. Inasmuch as Paragraph 155 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

COUNT V
Negligence (as to Waterside)

156. Alcoa repeats and re-alleges with the same force and effect as if set forth here in full its answers to each and every allegation contained in each paragraph incorporated by reference in Paragraph 156 of the First Amended Complaint.

157. Inasmuch as Paragraph 157 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

158. Inasmuch as Paragraph 158 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

159. Inasmuch as Paragraph 159 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

160. Inasmuch as Paragraph 160 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

161. Inasmuch as Paragraph 161 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

162. Inasmuch as Paragraph 162 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

COUNT VI
Unjust Enrichment (as to Waterside, ALCOA, A.P. and 38 COAH)

163. Alcoa repeats and re-alleges with the same force and effect as if set forth here in full its answers to each and every allegation contained in each paragraph incorporated by reference in Paragraph 163 of the First Amended Complaint.

164. Inasmuch as Paragraph 164 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph. Inasmuch as Paragraph 164 contains allegations related to Alcoa, Alcoa denies knowledge or information sufficient to form a belief as to the allegations contained in that Paragraph.

165. Inasmuch as Paragraph 165 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph. Inasmuch as Paragraph 165 contains allegations related to Alcoa, Alcoa denies the allegations contained in that Paragraph.

166. Alcoa denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 166.

167. Alcoa denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 167.

168. Alcoa can neither admit nor deny the allegations set forth in Paragraph 168, inasmuch as it makes legal conclusions to which Alcoa is not required to respond and which may vary from party to party.

169. Alcoa object to the allegations contained in Paragraph 169 as that Paragraph states conclusions to which no responsive pleading is required. Inasmuch as Paragraph 169 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph. Nonetheless, Alcoa denies that Plaintiff is entitled to the relief described in that Paragraph.

COUNT VII

Violations of the New Jersey Consumer Fraud Act (as to Waterside and Fred Daibes)

170. Alcoa repeats and re-alleges with the same force and effect as if set forth here in full its answers to each and every allegation contained in each paragraph incorporated by reference in Paragraph 170 of the First Amended Complaint.

171. Inasmuch as Paragraph 171 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

172. Inasmuch as Paragraph 172 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

173. Inasmuch as Paragraph 173 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

174. Inasmuch as Paragraph 174 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

175. Inasmuch as Paragraph 175 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

176. Inasmuch as Paragraph 176 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

177. Inasmuch as Paragraph 177 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

178. Inasmuch as Paragraph 178 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

179. Inasmuch as Paragraph 179 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

180. Inasmuch as Paragraph 180 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

181. Inasmuch as Paragraph 181 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

182. Inasmuch as Paragraph 182 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

183. Alcoa denies that contaminated fill materials imported to the Site came from the former Alcoa Site. Inasmuch as Paragraph 183 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

184. Inasmuch as Paragraph 184 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

185. Inasmuch as Paragraph 185 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

186. Inasmuch as Paragraph 186 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

187. Inasmuch as Paragraph 187 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

188. Inasmuch as Paragraph 188 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

189. Inasmuch as Paragraph 189 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

190. Inasmuch as Paragraph 190 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

191. Inasmuch as Paragraph 191 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

192. Inasmuch as Paragraph 192 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

193. Inasmuch as Paragraph 193 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

194. Inasmuch as Paragraph 194 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

**COUNT VIII
Breach of Contract (as to TERMS)**

195. Alcoa repeats and re-alleges with the same force and effect as if set forth here in full its answers to each and every allegation contained in each paragraph incorporated by reference in Paragraph 195 of the First Amended Complaint.

196. Inasmuch as Paragraph 196 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

197. Inasmuch as Paragraph 197 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

198. Inasmuch as Paragraph 198 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

199. Inasmuch as Paragraph 199 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

200. Inasmuch as Paragraph 200 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

201. Inasmuch as Paragraph 201 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

202. Inasmuch as Paragraph 202 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

203. Inasmuch as Paragraph 203 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

204. Inasmuch as Paragraph 204 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

205. Inasmuch as Paragraph 205 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

206. Inasmuch as Paragraph 206 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

COUNT IX
Negligence (as to TERMS)

207. Alcoa repeats and re-alleges with the same force and effect as if set forth here in full its answers to each and every allegation contained in each paragraph incorporated by reference in Paragraph 207 of the Second Amended Complaint.

208. Inasmuch as Paragraph 208 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

209. Inasmuch as Paragraph 209 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph.

210. Inasmuch as Paragraph 210 contains allegations related to a party other than Alcoa, Alcoa can neither admit nor deny the allegations set forth in that Paragraph. Alcoa objects to the allegations contained in Paragraph 210 as that Paragraph states conclusions to which no responsive pleading is required. Nonetheless, Alcoa denies that Plaintiff is entitled to the relief described in that Paragraph.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Plaintiff's Second Amended Complaint fails to state a claim upon which relief can be granted against Alcoa.

SECOND AFFIRMATIVE DEFENSE

Plaintiff's claims are barred, in whole or in part, by reason of laches, estoppel, waiver, consent, unclean hands, res judicata, and/or other equitable defenses.

THIRD AFFIRMATIVE DEFENSE

The applicable statute or statutes of limitations or other applicable law, rule, statute or regulation controlling or requiring the institution of suit within a certain period of time following its accrual, was not complied with by Plaintiff, for some or all of Plaintiff's alleged costs; accordingly, Plaintiff's claims are barred as a matter of law.

FOURTH AFFIRMATIVE DEFENSE

The Second Amended Complaint does not describe the claims made against Alcoa with sufficient particularity to determine what defenses may apply and Alcoa reserves the right to assert additional affirmative defenses as discovery progresses. Alcoa adopts and incorporates

herein all defenses raised by any other current Defendants and/or future Defendants or Third-Party Defendants, except to the extent that such defenses would shift liability to Alcoa.

FIFTH AFFIRMATIVE DEFENSE

Alcoa has a complete defense to any liability under the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. § 9601 *et seq.* (“CERCLA”) pursuant to CERCLA § 107(b)(3), 42 U.S.C. § 9607(b)(3), inasmuch as the alleged release or threatened release was caused solely by the acts or omissions of unrelated third parties who were not agents or employees of Alcoa and with whom Alcoa had no contractual relationship; Alcoa exercised due care as to any alleged hazardous substances; and Alcoa took precautions against foreseeable third-party acts or omissions, and against the foreseeable consequences of such acts or omissions, within the meaning of CERCLA § 107(b), 42 U.S.C. § 9607(b).

SIXTH AFFIRMATIVE DEFENSE

Plaintiff has no claim under CERCLA because Plaintiff has failed to establish a *prima facie* case against Alcoa.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiff has no claim under CERCLA because Alcoa Inc. and Alcoa Domestic LLC are not covered persons within the meaning of CERCLA.

EIGHTH AFFIRMATIVE DEFENSE

“Hazardous substances,” as defined in CERCLA § 101(14), 42 U.S.C. § 9601(14) were not released into the environment by Alcoa within the meaning of the word “release” as defined in CERCLA § 101(22), 42 U.S.C. § 9601(22). Even if there were “hazardous substances,” as defined in CERCLA § 101(14), 42 U.S.C. § 9601(14) released into the environment by Alcoa within the meaning of the word “release” as defined in CERCLA § 101(22), 42 U.S.C.

§ 9601(22), which Alcoa denies, the release did not affect the Veteran's Field site that is the subject of this Action.

NINTH AFFIRMATIVE DEFENSE

The costs incurred or to be incurred by Plaintiff and which Plaintiff seeks to recover in this action are not recoverable to the extent that they are not necessary costs of response consistent with the National Contingency Plan.

TENTH AFFIRMATIVE DEFENSE

Plaintiff has failed to allege or establish the required nexus between Alcoa and the Veteran's Field site that is the subject of this Action.

ELEVENTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred to the extent that Plaintiff did not comply with the statutory and/or regulatory prerequisites necessary to bring a CERCLA action.

TWELFTH AFFIRMATIVE DEFENSE

To the extent that any or all of the Defendants are found liable in this matter, joint and several liability is inappropriate because the harms are divisible and there are reasonable bases for apportionment of the harms suffered.

THIRTEENTH AFFIRMATIVE DEFENSE

Plaintiff has no claim under the Spill Compensation and Control Act, N.J.S.A. § 58:10-23.11 *et seq.* ("Spill Act" or "Act") against Alcoa because neither Alcoa Inc. nor Alcoa Domestic LLC are dischargers and/or responsible persons within the meaning of the Act, and/or Plaintiff's damages, if any, are the result of conduct occurring prior to the effective date of the Spill Act.

FOURTEENTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred to the extent that Plaintiff did not comply with the requirements and prerequisites of the Spill Act.

FIFTEENTH AFFIRMATIVE DEFENSE

In the event that Plaintiff is entitled to contribution from Alcoa under the Spill Act, such relief is limited to "clean up and removal costs" as defined at N.J.S.A. § 58:10-23b.

SIXTEENTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred by the statutory defenses to liability provided by the Spill Act.

Dated: May 20, 2015

Respectfully submitted,

K&L GATES LLP

By: /s/ Michael E. Waller

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